

Remarks

4. The Examiner rejected claims 17-19 under 35 U.S.C. 112, first paragraph. As shown claim 17 has been amended so that what is claimed is shown and described in the application as originally filed. In particular, the first and second extensions are both claimed as being transversely convex, as described in the specification. Claims 18 and 19 are canceled.

5. Claim 25 is a new claim and claims the structure for the extensions wherein both the first and second extensions are transversely convex and there is a large offset between the extensions. It is not believed this structure is disclosed in Cantley II.

6. Claims 1-16 were rejected as being anticipated by Cantley II. Cantley II discloses first and second fence lattice members 102,104, respectively, that cross over one another. Each lattice 102 has a concave upper surface 106 and concave lower surface 108, and center regions 114,116. Similarly, each lattice 104 has a concave upper surface 118 and a concave lower surface 120 and center regions 126, 128. Members 102 and 104 have cross sections that are "bow tie shaped" (Col. 6, lines 28-29, and lines 42-43)

Cantley II discloses the "bow tie shape gives several advantages." (Col. 6, lines 44-45) The Cantley II states this is advantageous because, "the thicker edges give an I-beam effect creating a stiffer member while conserving material." (Col. 6, lines 45-46) Additionally, "the concave surfaces, which may be viewed when the lattice is installed, help with the 3-dimensional appearance of the lattice". (Col. 6, line 46-49)

The central regions 116 and 126 are generally co-planar, while the thicker portions of the members 102, 104 overlap to form the interconnection.

Claim 1 is amended to recite "the first extension is planar and the second extension is planar" and additionally calls for "at the juncture where the first and the second extensions appear to cross over each other, at least 50% to 95% of the depth of each side edge is exposed and the remaining portion of the depth of each side edge is merged with the other extension". Cantley II shows lattices that have a "bow tie" cross section and lists the advantages (conservation of material, I-beam effect, 3-D appearance) of the "bow tie" structure. This strongly suggests that Cantley II specifically teaches against using planar lattices for large offsets which are claimed in amended claim 1 and amended claim 11.

7. Amended claims 1 and 9 call for first and the second planar extensions which cross leaving at least 50% to 95% of the depth of each side edge is exposed. Cantley II discloses offset concave lattices 102 and 104. Thus, significant structural difference exist between amended claims 1 and 9 and the concave lattices of Cantley II. As such, applicant does not believe that Cantley II anticipates amended claims 1 and 9 under 35 U.S.C. 102(e).

8. The Examiner also rejected claims 3 and 11 on the grounds that they are obvious over Cantley II in view of Cowan. Cowan is for plastic fencing with reflective tape. However, amended claim 3 now depends from amended claim 1 and claim 11 now depends from amended claim 9. Applicant believes that

amended claim 3 and claim 11 now depend from independent claims that are allowable. As such, amended claim 3 and claim 11 ought be allowable as well.

9. Also, attached is an declaration pursuant to 37 C.F.R. Section 131 which is submitted to establish prior invention by the applicant. Attached to the declaration are Exhibits A and B.

Exhibit A is a large blueprint (about three feet by five feet in dimension) showing a large offset lattice fence and is dated June 2000. The blueprint shows a perspective, top, sectional, and an detail view (enlarged sectional view) of the large offset lattice fence. Also submitted is a purchase order from May 2001 showing the applicants were diligently working on the invention prior to June 18, 2001 by having molds made for the large offset lattice fence.

Additionally, amended independent claim 1 reads on the blueprint figures, since amended independent claim 1 recites:

"A polymeric lattice fence comprising: a unitary polymeric structure having a framework of at least one first extension and at least one second extension, the first and second extensions appear to cross one another at a juncture, the first and the second extensions appear to cross over each other at different angles to form a network of apertures between the extensions." All of this is shown in the attached blueprint.

It further recites "the first and second extensions each have a length, a width, two side edges, and a depth that are the same or distinct;

the first extension is planar and the second extension is planar;" This is all shown in the blueprint.

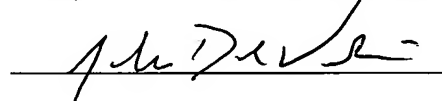
It further recites "at the juncture where the first and the second extensions appear to cross over each other, at least 50% to 95% of the depth of each side edge is exposed and the remaining portion of the depth of each side edge is merged with the other extension." This structure is also shown in the lattice of the blueprint.

Therefore, amended claim 1 reads on the blueprint. The blueprint shows applicant had conception of the Large Offset Lattice Fence well before the filing date of Cantley II. Hence, Cantley II ought be removed as a reference to deny the patentability of applicant's large offset lattice fence.

10. Conclusion

Applicant respectfully requests reconsideration, and further respectfully requests that the amendments be entered, that Cantley II be removed as a reference, that the rejections of claims 1-17 be reconsidered and withdrawn and that these claims be allowed, that claims 18 and 19 be canceled, and that new claim 25 be allowed.

Respectfully submitted,



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